

SPECIAL ORDINANCE NO. 16, 2010.

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

Common Address of lots to be rezoned:

303 South 7th Street, Terre Haute, IN 47807

Rezone From: C-1 Neighborhood Commerce District

Rezone To: C-2 Limited Community Commercial District

Proposed Use: Restaurant

Name of Owner: Donald F. Garvin
Richard E. Lidster
Theodore J. Shanks

Address of Owner: 2245 N 9th Street
Terre Haute, IN 47804

Phone Number of Owner: (812) 841-2681

Attorney Representing Owner: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Todd Nation

COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

MAY 07 2010

SPECIAL ORDINANCE NO. 16, 2010

CITY CLERK

An Ordinance Amending Chapter 10, of the Terre Haute City Code, Zoning and Subdivision Regulations, as adopted by General Ordinance No. 10, 1999, as Amended, entitled "An Ordinance Adopting And Enacting A Code Of Ordinances For The City Of Terre Haute, Indiana; Establishing The Same; Providing For The Repeal Of Certain Ordinances Not Included Therein, Except As Herein Provided; Providing For The Manner Of Amending Such Code Of Ordinances; Providing A Penalty For Violations Thereof; Providing When This Ordinance Shall Become Effective And Officially Adopting The Terre Haute City Code, And Passing Ordinances Addressing Fees, Fines And Regulations".

BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION I. That Chapter 10, of the Terre Haute City Code, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute" of General Ordinance No. 10, 1999, effective, December 10, 1999, Section 10-121, thereof, District Maps, is hereby amended to read as follows:

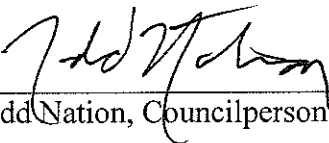
Lots Numbered 6 and 7 in Hite's Subdivision of Out Lot 56 in the Original Town now City of Terre Haute, otherwise described as follows: Beginning at the Northeast corner of said Lot 7; thence South with the East line of said Lot 7 to the intersection of the West line of Seventh Street with the North line of Swan Street, a distance of 134.6 feet; thence West with the North line of Swan Street, 154.6 feet to the West line of said Lot 6; thence North along said West line a distance of 188.42 feet to the Northwest corner of said Lot 6; in the South line of Poplar Street; thence Southeasterly along said South line of Poplar Street, 163.39 feet to the place of beginning.

Commonly known as 303 South 7th Street, Terre Haute, IN 47807.

be and the same is, hereby established as a C-2 Limited Community Commercial District, together with all rights and privileges that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of the City of Terre Haute, and its approval by the Mayor and publication as by law provided.

Presented by Council Member, _____


Todd Nation, Councilperson

Passed in open Council this _____ day of _____, 2010.

Neil Garrison, President

ATTEST:

Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2010.

Charles P. Hanley, City Clerk

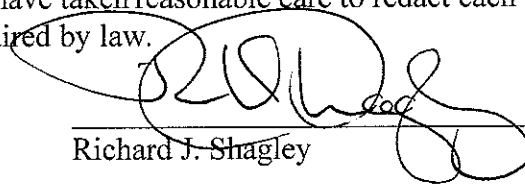
Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2010.

Duke A. Bennett, Mayor

ATTEST:

Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.



Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

PETITION TO REZONE REAL PROPERTY

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA;

and THE PRESIDENT AND MEMBERS OF THE AREA PLANNING COMMISSION OF VIGO COUNTY, INDIANA.

LADIES and GENTLEMEN:

The Petitioners, Donald F. Garven, Richard E. Lidster, and Theodore J. Shanks, respectfully submit this Petition to Rezone the following described real estate in the City of Terre Haute, Vigo County, State of Indiana, to-wit:

Lots Numbered 6 and 7 in Hite's Subdivision of Out Lot 56 in the Original Town now City of Terre Haute, otherwise described as follows: Beginning at the Northeast corner of said Lot 7; thence South with the East line of said Lot 7 to the intersection of the West line of Seventh Street with the North line of Swan Street, a distance of 134.6 feet; thence West with the North line of Swan Street, 154.6 feet to the West line of said Lot 6; thence North along said West line a distance of 188.42 feet to the Northwest corner of said Lot 6; in the South line of Poplar Street; thence Southeasterly along said South line of Poplar Street, 163.39 feet to the place of beginning.

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Your Petitioners are informed and believe that in accordance with Chapter 10, known and referred to as "The Comprehensive Zoning Ordinance for Terre Haute", as amended, the above described real estate is now zoned as C-1 Neighborhood Commercial District.

Your Petitioners would respectfully state that the real estate is now vacant, having formally been used for Chicago's Pizza and an ice cream store. Your Petitioners intend to sell the real estate and the purchasers intend to use as a restaurant.

Your Petitioners would request that the real estate described herein shall be zoned as a C-2 Limited Community Commercial District to allow for the use as proposed by the Purchasers. Your Petitioners would allege that the C-2 Limited Community Commercial District would not alter the general characteristics of this neighborhood, since the real estate is a commercial property at the major intersection of Seventh Street and Poplar Street.

Your Petitioners would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the area since this is a commercial property.

WHEREFORE, your Petitioners respectfully request that the Area Planning Commission and the Common Council of the City of Terre Haute, Indiana favorably consider the passage of a Special Ordinance amending the District Maps of Chapter 10, of the Terre Haute City Code


entitled The Comprehensive Zoning Ordinance for Terre Haute, Section 10-121 District Maps and declaring the above-described real estate to be part of the C-2 Limited Community Commercial District of the City of Terre Haute, Indiana, and is entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the undersigned Petitioners have caused this Petition to Rezone Real Property to be executed this 7th day of May, 2010.

PETITIONERS:

Donald F. Garvin
Theodore J. Shanks
Richard E. Lidster

By:


Richard E. Lidster

WRIGHT, SHAGLEY & LOWERY, P.C.
500 Ohio Street
Terre Haute, IN 47807
Phone: (812) 232-3388

BY:


Richard J. Shagley, #257-84
Attorneys for Petitioner

The owner and mailing address: 2245 N 9th Street, Terre Haute, IN 47804.

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, Indiana 47807.

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

AFFIDAVIT

Comes now, Richard E. Lidster, being duly sworn upon her oath, deposes and says:

1. That Richard E. Lidster, Donald F. Garvin and Theodore J. are the fee simple owners of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lots Numbered 6 and 7 in Hite's Subdivision of Out Lot 56 in the Original Town now City of Terre Haute, otherwise described as follows: Beginning at the Northeast corner of said Lot 7; thence South with the East line of said Lot 7 to the intersection of the West line of Seventh Street with the North line of Swan Street, a distance of 134.6 feet; thence West with the North line of Swan Street, 154.6 feet to the West line of said Lot 6; thence North along said West line a distance of 188.42 feet to the Northwest corner of said Lot 6; in the South line of Poplar Street; thence Southeasterly along said South line of Poplar Street, 163.39 feet to the place of beginning.

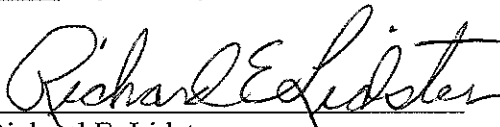
Commonly known as 303 South 7th Street, Terre Haute, IN 47807.

2. That a copy of the Warranty Deed, dated August 31, 1983, and recorded in the records of the Recorder's Office of Vigo County, Indiana, transferring fee simple title to Affiant, is attached hereto and made a part hereof and marked as Exhibit A.

3. That Affiant makes this Affidavit for the sole purpose of affirming that Richard E. Lidster, and Donald F. Garvin and Theodore J. Shanks are the owners of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Richard E. Lidster, Donald F. Garvin and Theodore J. Shanks.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 7th day of May, 2010.


Richard E. Lidster

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said County and State, this 7th day of May 2010.

Rosanna Rayer
Rosanna Rayer, Notary Public

My Commission expires:

12.23.15

My County of Residence:

Clay

This instrument prepared by Richard J. Shagley, Attorney At Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, Terre Haute, IN 47807.

88-239 8063

LIMITED WARRANTY DEED

741

THIS IS A DEED dated August 31, 1983, by SHELL OIL COMPANY, a Delaware corporation with offices at 8500 North Michigan Road in Indianapolis, Indiana 46268, (herein called "Grantor") to DONALD F. GARVIN, RICHARD E. LIDSTER, AND THEODORE J. SHANKS of 2331-So. 7th Street, Terre Haute, Indiana 47802 (herein called "Grantee", whether one or more):

GRANTOR, for good and valuable consideration received, hereby grants and conveys to Grantee the following described Premises situated in Terre Haute, County of Vigo, State of Indiana:

Lots Numbered 6 and 7 in Hite's Subdivision of Out Lot 56 in the Original Town now City of Terre Haute, otherwise described as follows: Beginning at the Northeast corner of said Lot 7; thence South with the East line of said Lot 7 to the intersection of the West line of Seventh Street with the North line of Swan Street, a distance of 134.6 feet; thence West with the North line of Swan Street, 154.6 feet to the West line of said Lot 6; thence North along said West line a distance of 188.42 feet to the Northwest corner of said Lot 6; in the South line of Poplar Street; thence Southeasterly along said South line of Poplar Street, 163.39 feet to the place of beginning:

together with all rights, privileges and appurtenances thereto and all buildings and land improvements thereon; but subject to all easements, rights-of-way; reservations, restrictions and encumbrances of record, to any existing tenancies, to all zoning laws and ordinances, and to any state of facts an accurate survey or inspection of the premises would show;

TO HAVE AND TO HOLD the same unto Grantee and Grantee's heirs, successors and assigns forever.

SUBJECT to the foregoing and to the liens of all taxes and assessments for the year 1983 and subsequent years, Grantor covenants with Grantee that Grantor will warrant and defend the title to the premises against the lawful claims of all persons claiming by, through or under Grantor.

EXECUTED by Grantor as of the date first herein specified.

WITNESSES:

SHELL OIL COMPANY

By

T. L. CLEMENTS

T. L. CLEMENTS
MANAGER, CORPORATE REAL ESTATE
ADMINISTRATIVE SERVICES

ATTEST:

Kim Jensen Clifford
KIM JENSEN CLIFFORD ASSISTANT SECRETARY

STATE OF TEXAS)
COUNTY OF HARRIS) SS:

Before me L. C. JONES a Notary Public, this 31st day

of August, 1983, personally appeared SHELL OIL COMPANY by

T. L. CLEMENTS and KIM JENSEN CLIFFORD

its MANAGER, CORPORATE REAL ESTATE and Assistant Secretary respectively
ADMINISTRATIVE SERVICES
and acknowledged the execution of the foregoing instrument.

My commission expires: _____

L. C. Jones
Notary Public in and for the State of Texas
My Commission Expires November 30 1984

This Instrument was prepared under the supervision of
W. J. PUMER, a representative of Shell Oil Company
8500 North Michigan Road, Indianapolis, Indiana

RECEIVED FOR RECORD THE 30 DAY OF Sept 1983 AT 3:00 O'CLOCK PM
RECORD 394 PAGE 741 WILLIAM BRAMBLE, RECORDER

ONLY ENTERED FOR RECORD

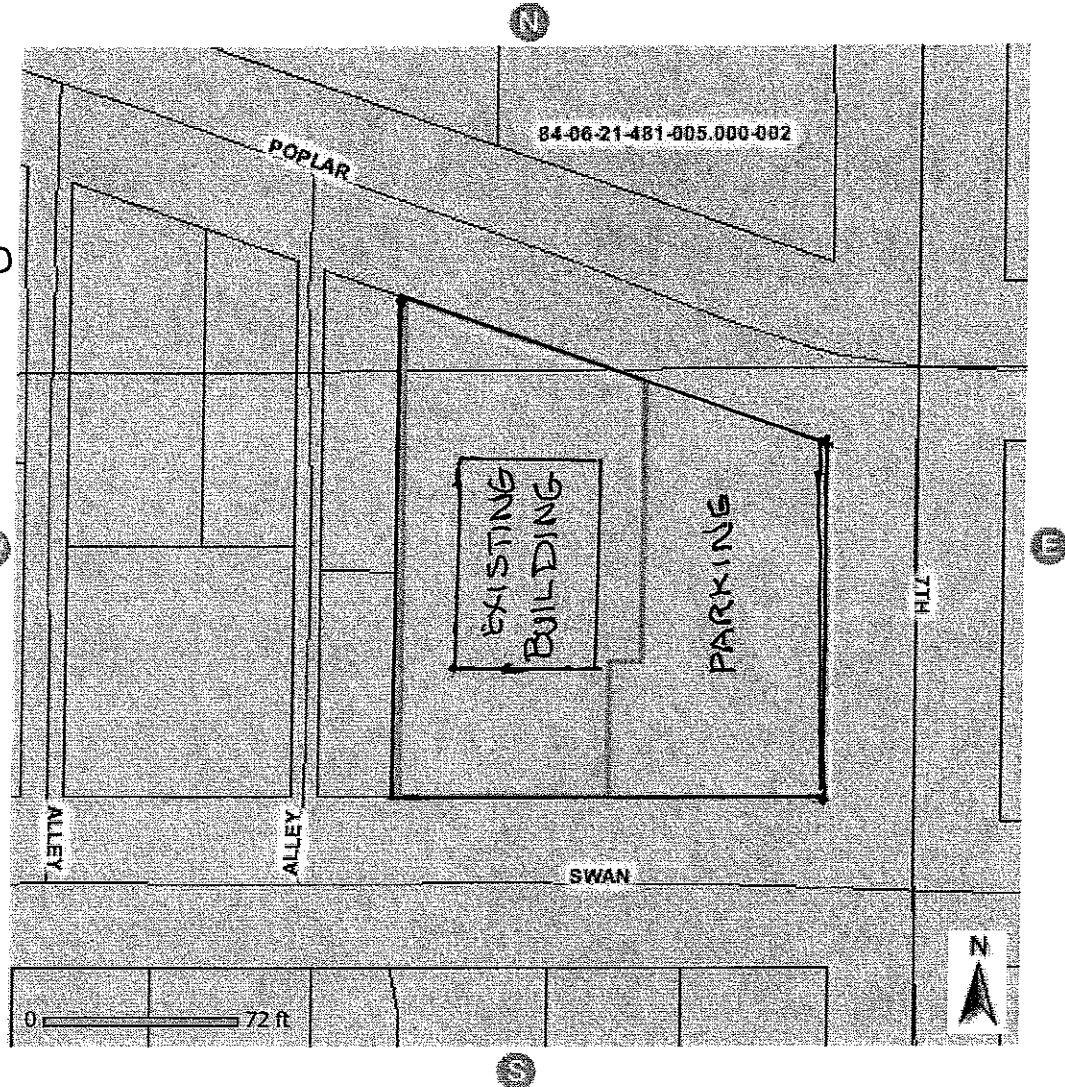
INDIANA GRASS INSURANCE TAX ON SALES OF REAL ESTATE
Paid by Shell Oil Co.
Date 9/30/83
Amount Paid \$ 544.48
Taxes Receipt 252608 - Vigo County

SITE PLAN

Map

S.O. 16, 2010

C-1 to C-2

commercial
building
(existing)

Summary

Parcel ID	84-06-28-229-019.000-002	Alternate ID	N/A	Owner Name	GARVIN DONALD F & RICHARD E LIDSTER & TR
Sec/Twp/Rng		Class	Com Parking lot or structure	Owner Address	GARVIN DONALD F & RICHARD E LIDSTER & TR
Property Address	303 S 7TH ST TERRE HAUTE	Acreage	0.00		3655 W 14 1/2 ST TERRE HAUTE, IN 47802
District	002 HARRISON				
Brief Tax Description	HITES SUB OF OL 56 PRT 7 28-12-9 .000 AC LOTS 6-7 (Note: Not to be used on legal documents)				

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